

CRIMINAL RULES

Local Rule for the Assignment of Criminal Cases in Lake County

All misdemeanors and felonies not filed by the prosecuting attorney in the city or town courts of the circuit shall be filed, assigned, and reassigned only in accordance with this rule.

A. Filing.

1. Except as otherwise provided, unless the prosecuting attorney elects to file a misdemeanor charge in a city or town court, all misdemeanors shall be filed in the county division of the superior court.

2. All murder, Class A, B and C felonies shall be filed in the criminal division.

3. Except as otherwise provided, the prosecuting attorney may file a Class D felony in either the county or criminal division.

4. If a defendant who is being charged with a Class D felony is on probation to the county division, has other charges pending in the county division, or has previously been sentenced in the county division for an offense, then the Class D felony shall be filed in the county division.

5. If a defendant who is being charged with a Class D felony is on probation to the criminal division, has other charges pending in the criminal division, or has previously been sentenced in the criminal division for an offense, then the Class D felony shall be filed in the criminal division.

6. Notwithstanding the filing requirements above, all charges involving multiple offenses or defendants shall be filed in the same division as one another if the charges arise from:

a. a single act;

b. a series of acts connected together or constituting parts of a single scheme or plan;

c. a conspiracy; or,

d. a number of offenses so closely connected in respect to time, place, and occasion that it would be difficult to separate proof of one offense from proof of the others.

7. Except as otherwise provided, and whenever possible, charges which have previously been filed and dismissed may only be refiled in the same division. This includes all charges arising out of the same offense report, arrest report, or set of operative facts.

B. Assignment.

1. Charges shall be assigned within a division according to the following rules, which are listed in order of precedence:

a. Charges involving multiple offenses or defendants shall be assigned to the same judge if the charges arise from:

(1) a single act;

(2) a series of acts connected together or constituting parts of a single scheme or plan;

(3) a conspiracy; or,

(4) a number of offenses so closely connected in respect to time, place, and occasion that it would be difficult to separate proof of one offense from proof of the others.

b. Charges filed against defendant who has other charges pending shall be assigned to the judge handling the pending charges.

c. Charges filed against a defendant who has previously been sentenced by a judge shall be assigned to that same judge. If the defendant has previously been sentenced by more than one judge of the division, then the case shall be assigned to the judge who still has jurisdiction over the defendant through probation, if applicable, or else to the judge who sentenced the defendant most recently.

d. Charges against a defendant who has previously been a defendant in the division shall be assigned to the same room of the division.

e. If more than one defendant in a new case has other charges pending before separate judges within the same division, the new case shall be assigned to the judge with the greater number of cases pending against all codefendants in the case. If the number of such pending cases is equal for two or more judges, then the case shall either be randomly assigned to one of those judges or else be assigned to the judge whose cases are closer to disposition at the time of the new filing.

f. Charges filed in the county division involving violations of IC 35-48 shall be assigned to Room 2 of that division if the defendant is a resident of the city of Gary or the offense is alleged to have occurred in Gary.

g. All other cases shall be randomly assigned so that the assignment of all criminal cases to judges within a division is kept relatively equal.

2. Charges which have been dismissed and refiled shall be assigned to the same judge who had jurisdiction of the charges when they were dismissed. This includes all charges arising out of the same offense report, arrest report, or set of operative facts.

C. Reassignment.

If a motion for change of judge is granted in a case or an order of disqualification or recusal is entered in the case, then the case shall be reassigned to another judge of the same division following the rules of precedence set forth above.

D. Transfer.

This rule shall not prohibit the court from transferring a case from one judge to another or from one division to another in accordance with statute. This rule shall also not be understood to encourage or permit the transfer of a case merely on the agreement of the prosecution and defense.